

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CORTICAS LAMOSEL, LDA,

No. C-05-04155 SI (EDL)

Plaintiff,

**ORDER DENYING REQUEST TO
CONTINUE SETTLEMENT
CONFERENCE AND DENYING
REQUEST TO APPEAR BY
TELEPHONE**

v.

DIAGEO CHATEAU & ESTATE WINES,

Defendant.

On September 20, 2006, Plaintiff's counsel filed a declaration seeking a continuance of the September 27, 2006 settlement conference, or in the alternative, to have Plaintiff's representative, Mr. Olivera, appear by telephone. Counsel states that she was just informed that Plaintiff's factory in Portugal had burned down and that Mr. Olivera "could not leave his business at the moment since it is critical to Lamosel that he remain at the site," and that therefore, Mr. Olivera would be unable to travel to San Francisco for the settlement conference. See Basaloco-Lapo Decl. ¶¶ 3, 5. Defense counsel stated in a response letter dated September 20, 2006 that the factory fire took place in June 2006. Notably, Plaintiff's counsel does not indicate the date of the fire in her declaration.

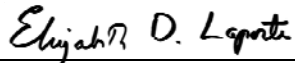
This is the second time that Mr. Olivera has indicated his intent not to appear at a settlement conference only days before the conference date. The Court previously issued an Order to Show Cause, requiring Plaintiff to show why it should not be sanctioned for violating the Court's Order requiring attendance at the August 16, 2006 settlement conference. Mr. Olivera filed a declaration in response to the Court's Order to Show Cause, which the Court determined was inadequate to excuse his failure to attend. Nevertheless, the Court declined to issue sanctions at that time. The

1 Court continued the settlement conference to September 27, 2006 and ordered Mr. Olivera to be
2 present.

3 It is once again clear that Mr. Olivera, while expressing “deep regret at the inconvenience”
4 his inability to travel to San Francisco may cause, has indicated his intent to violate another court
5 order requiring his attendance at the settlement conference. The Court is not persuaded that there
6 has been a sufficient showing to excuse Mr. Olivera’s absence from the settlement conference. The
7 request to continue the September 27, 2006 settlement conference or to permit Mr. Olivera to appear
8 by telephone is denied. Plaintiff is warned that violation of a court order may be punishable by
9 monetary sanctions.

10 **IT IS SO ORDERED.**

11 Dated: September 25, 2006

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14 ELIZABETH D. LAPORTE
15 United States Magistrate Judge
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